

REFERENCE TITLE: liquor; restaurant license for grills

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2740

Introduced by
Representatives Reagan: Groe, McComish, Nichols, Senator Cheuvront

AN ACT

AMENDING SECTIONS 4-205.02 AND 4-209, ARIZONA REVISED STATUTES; RELATING TO
LIQUOR LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 4-205.02, Arizona Revised Statutes, is amended to
3 read:

4 4-205.02. Restaurant license: restaurant license for grill
5 establishments: issuance: regulatory provisions:
6 nontransferability: revocation: definitions

7 A. The director may issue a restaurant license to any restaurant in
8 this state which is regularly open for the serving of food to guests for
9 compensation and which has suitable kitchen facilities connected with the
10 restaurant for keeping, cooking and preparing foods required for ordinary
11 meals.

12 B. The director shall issue the license in the name of the restaurant
13 upon application for the license by the owner or lessee of the restaurant,
14 provided the applicant is otherwise qualified to hold a spirituous liquor
15 license. The holder of such license is subject to the penalties prescribed
16 for any violation of the law relating to alcoholic beverages.

17 C. The holder of a restaurant license may sell and serve spirituous
18 liquors solely for consumption on the licensed premises. For the purpose of
19 this subsection, "licensed premises" may include rooms, areas or locations in
20 which the restaurant normally sells or serves spirituous liquors pursuant to
21 regular operating procedures and practices and which are contiguous to the
22 restaurant. For the purpose of this subsection, a restaurant licensee must
23 submit proof of tenancy or permission from the landowner or lessor for all
24 property to be included in the licensed premises.

25 D. In addition to other grounds prescribed in this title upon which a
26 license may be revoked, the director may revoke a restaurant license issued
27 pursuant to this section in any case in which the licensee ceases to operate
28 as a restaurant, as prescribed in subsection A of this section.

29 E. Neither the director nor the board may initially issue a restaurant
30 license if either finds that there is sufficient evidence that the operation
31 will not satisfy the criteria adopted by the director for issuing a
32 restaurant license described in section 4-209, subsection B, paragraph 12.
33 The director shall issue a restaurant license only if the applicant has
34 submitted a plan for the operation of the restaurant. The plan shall be
35 completed on forms provided by the department and shall include listings of
36 all restaurant equipment and service items, the restaurant seating capacity
37 and other information requested by the department to substantiate that the
38 restaurant will operate in compliance with this section.

39 F. The holder of the license described in section 4-209, subsection B,
40 paragraph 12 who intends to alter the seating capacity or dimensions of a
41 restaurant facility shall notify the department in advance on forms provided
42 by the department.

43 G. THE DIRECTOR MAY ISSUE A RESTAURANT LICENSE FOR A GRILL
44 ESTABLISHMENT TO ANY GRILL IN THIS STATE THAT IS REGULARLY OPEN FOR THE
45 SERVING OF FOOD TO GUESTS FOR COMPENSATION FOR AT LEAST SIXTY-FIVE PER CENT

1 OF THE TIME THAT THE BUSINESS IS OPEN TO THE PUBLIC AND THAT HAS A SUITABLE
2 KITCHEN. FOR THE PURPOSES OF THIS SUBSECTION, "KITCHEN" MEANS SUITABLE
3 KITCHEN FACILITIES CONNECTED WITH THE GRILL FOR KEEPING, COOKING AND
4 PREPARING FOODS REQUIRED FOR ORDINARY MEALS.

5 H. THE DIRECTOR SHALL ISSUE THE RESTAURANT LICENSE FOR A GRILL
6 ESTABLISHMENT IN THE NAME OF THE ESTABLISHMENT ON APPLICATION FOR THE LICENSE
7 BY THE OWNER OR LESSEE OF THE GRILL IF THE APPLICANT IS OTHERWISE QUALIFIED
8 TO HOLD A SPIRITUOUS LIQUOR LICENSE.

9 I. THE HOLDER OF A RESTAURANT LICENSE FOR A GRILL ESTABLISHMENT MAY
10 SELL AND SERVE SPIRITUOUS LIQUORS SOLELY FOR CONSUMPTION ON THE LICENSED
11 PREMISES. A HOLDER OF A RESTAURANT LICENSE FOR A GRILL ESTABLISHMENT MUST
12 SUBMIT PROOF OF TENANCY OR PERMISSION FROM THE LANDOWNER OR LESSOR FOR ALL
13 PROPERTY TO BE INCLUDED IN THE LICENSED PREMISES. FOR THE PURPOSES OF THIS
14 SUBSECTION, "LICENSED PREMISES" INCLUDES ROOMS, AREAS OR LOCATIONS IN WHICH
15 THE ESTABLISHMENT NORMALLY SELLS OR SERVES SPIRITUOUS LIQUORS PURSUANT TO
16 REGULAR OPERATING PROCEDURES AND PRACTICES AND THAT ARE CONTIGUOUS TO THE
17 GRILL.

18 J. IN ADDITION TO OTHER GROUNDS PRESCRIBED IN THIS TITLE ON WHICH A
19 LICENSE MAY BE REVOKED, THE DIRECTOR MAY REVOKE A RESTAURANT LICENSE FOR A
20 GRILL ESTABLISHMENT IN ANY CASE IN WHICH THE LICENSEE CEASES TO OPERATE UNDER
21 A RESTAURANT LICENSE FOR A GRILL ESTABLISHMENT.

22 K. NEITHER THE DIRECTOR NOR THE BOARD MAY INITIALLY ISSUE A RESTAURANT
23 LICENSE FOR A GRILL ESTABLISHMENT IF EITHER FINDS THAT THERE IS SUFFICIENT
24 EVIDENCE THAT THE OPERATION WILL NOT SATISFY THE CRITERIA ADOPTED BY THE
25 DIRECTOR FOR ISSUING A RESTAURANT LICENSE. THE DIRECTOR SHALL ISSUE A
26 RESTAURANT LICENSE FOR A GRILL ESTABLISHMENT ONLY IF THE APPLICANT HAS
27 SUBMITTED A PLAN FOR THE OPERATION OF THE GRILL. THE PLAN SHALL BE COMPLETED
28 ON FORMS PROVIDED BY THE DEPARTMENT AND SHALL INCLUDE LISTINGS OF ALL
29 EQUIPMENT AND SERVICE ITEMS, THE SEATING CAPACITY AND OTHER INFORMATION
30 REQUESTED BY THE DEPARTMENT TO SUBSTANTIATE THAT THE GRILL WILL OPERATE IN
31 COMPLIANCE WITH THIS SECTION.

32 L. A RESTAURANT LICENSE FOR A GRILL ESTABLISHMENT MAY BE TRANSFERRED
33 FROM PERSON TO PERSON PURSUANT TO SECTION 4-203. NOTWITHSTANDING SECTION
34 4-203, A RESTAURANT LICENSE FOR A GRILL ESTABLISHMENT SHALL NOT BE
35 TRANSFERRED FROM LOCATION TO LOCATION.

36 M. THE HOLDER OF A RESTAURANT LICENSE FOR A GRILL ESTABLISHMENT IS
37 SUBJECT TO THE PENALTIES PRESCRIBED FOR ANY VIOLATION OF THE LAW RELATING TO
38 ALCOHOLIC BEVERAGES. IN ADDITION TO ANY OTHER CRIMINAL OR CIVIL PENALTIES
39 PRESCRIBED BY LAW, THE DEPARTMENT MAY IMPOSE A CIVIL PENALTY OF FIVE THOUSAND
40 DOLLARS PER OCCURRENCE AGAINST A PERSON WHO HOLDS A RESTAURANT LICENSE FOR A
41 GRILL ESTABLISHMENT AND WHO VIOLATES ANY LAW OF THIS STATE. THE DEPARTMENT
42 SHALL TRANSMIT ANY CIVIL PENALTIES COLLECTED PURSUANT TO THIS SUBSECTION TO
43 THE STATE TREASURER FOR DEPOSIT IN THE STATE GENERAL FUND.

44 N. A PERSON WITH A RESTAURANT LICENSE AND A LICENSED LOCATION THAT
45 MEETS THE REQUIREMENTS FOR A RESTAURANT LICENSE FOR A GRILL ESTABLISHMENT MAY

1 CONVERT THE RESTAURANT LICENSE INTO A RESTAURANT LICENSE FOR A GRILL
2 ESTABLISHMENT BY SUBMITTING WRITTEN NOTIFICATION OF THE CONVERSION TO THE
3 DEPARTMENT. THE DEPARTMENT SHALL AUTOMATICALLY ISSUE A RESTAURANT LICENSE
4 FOR A GRILL ESTABLISHMENT TO A PERSON WITH A RESTAURANT LICENSE IF THE
5 LICENSED LOCATION MEETS THE REQUIREMENTS FOR A RESTAURANT LICENSE FOR A GRILL
6 ESTABLISHMENT WITHIN THIRTY DAYS AFTER RECEIVING NOTICE PURSUANT TO THIS
7 SUBSECTION.

8 ~~6-~~ 0. For the purpose of this section:

9 1. "GRILL" MEANS AN ESTABLISHMENT THAT DERIVES AT LEAST TWENTY PER
10 CENT OF ITS GROSS REVENUE FROM THE SALE OF FOOD, INCLUDING SALES OF FOOD FOR
11 CONSUMPTION OFF THE LICENSED PREMISES IF THE AMOUNT OF THESE SALES INCLUDED
12 IN THE CALCULATION OF GROSS REVENUE FROM THE SALE OF FOOD DOES NOT EXCEED TEN
13 PER CENT OF ALL GROSS REVENUE OF THE GRILL.

14 ~~1-~~ 2. "Gross revenue" means the revenue derived from all sales of
15 food and spirituous liquor on the licensed premises, regardless of whether
16 the sales of spirituous liquor are made under a restaurant license issued
17 pursuant to this section or under any other license that has been issued for
18 the premises pursuant to this article.

19 ~~2-~~ 3. "Restaurant" means an establishment which derives at least
20 forty per cent of its gross revenue from the sale of food, including sales of
21 food for consumption off the licensed premises if the amount of these sales
22 included in the calculation of gross revenue from the sale of food does not
23 exceed fifteen per cent of all gross revenue of the restaurant.

24 Sec. 2. Section 4-209, Arizona Revised Statutes, is amended to read:

25 ~~4-209.~~ Fees for license, application, issuance, renewal and
26 transfer; late renewal penalty; seasonal operation;
27 surcharges

28 A. A fee shall accompany an application for an original license or
29 transfer of a license, or in case of renewal, shall be paid in
30 advance. Every license expires annually. A licensee who fails to renew the
31 license on or before the due date shall pay a penalty of one hundred fifty
32 dollars which the licensee shall pay with the renewal fee. A license renewal
33 that is deposited, properly addressed and postage prepaid in an official
34 depository of the United States mail on or before the due date shall be
35 deemed filed and received by the department on the date shown by the postmark
36 or other official mark of the United States postal service stamped on the
37 envelope. If the due date falls on a Saturday, Sunday or other legal
38 holiday, the renewal shall be considered timely if it is received by the
39 department on the next business day. The director may waive a late renewal
40 penalty if good cause is shown by the licensee. A licensee who fails to
41 renew the license on or before the due date may not sell, purchase or
42 otherwise deal in spirituous liquor until the license is renewed. A license
43 which is not renewed within sixty days after the due date is deemed
44 terminated. The director may renew the terminated license if good cause is
45 shown by the licensee. An application fee for an original license or the

1 transfer of a license shall be one hundred dollars, which shall be retained
2 by this state.

3 B. Issuance fees for original licenses shall be:

4 1. For an in-state producer's license, to manufacture or produce
5 spirituous liquor in this state, one thousand five hundred dollars.

6 2. Except as provided in paragraph 15 of this subsection, for an
7 out-of-state producer's, exporter's, importer's or rectifier's license, two
8 hundred dollars.

9 3. For a domestic microbrewery license, three hundred dollars.

10 4. For a wholesaler's license, to sell spirituous liquors, one
11 thousand five hundred dollars.

12 5. For a government license issued in the name of a county, city or
13 town, one hundred dollars.

14 6. For a bar license, which is an on-sale retailer's license to sell
15 all spirituous liquors primarily by individual portions and in the original
16 containers, one thousand five hundred dollars.

17 7. For a beer and wine bar license, which is an on-sale retailer's
18 license to sell beer and wine primarily by individual portions and in the
19 original containers, one thousand five hundred dollars.

20 8. For a conveyance license issued to an operating railroad company,
21 to sell all spirituous liquors in individual portions or in the original
22 containers on all passenger trains operated by the railroad company, or to an
23 operating airline company, to sell or serve spirituous liquors solely in
24 individual portions on all passenger planes operated by the airline company,
25 or to a boat operating in the waters of this state, to sell all spirituous
26 liquors in individual portions or in the original containers for consumption
27 on the boat, one thousand five hundred dollars.

28 9. For a liquor store license, which is an off-sale retailer's license
29 to sell all spirituous liquors, one thousand five hundred dollars.

30 10. For a beer and wine store license, which is an off-sale retailer's
31 license to sell beer and wine, one thousand five hundred dollars.

32 11. For a hotel-motel license issued as such, to sell and serve
33 spirituous liquors solely for consumption on the licensed premises of the
34 hotel or motel, one thousand five hundred dollars.

35 12. For a restaurant license issued as such, to sell and serve
36 spirituous liquors solely for consumption on the licensed premises of the
37 restaurant, one thousand five hundred dollars, AND FOR A RESTAURANT LICENSE
38 FOR A GRILL ESTABLISHMENT ISSUED AS SUCH, TO SELL AND SERVE SPIRITUOUS
39 LIQUORS SOLELY FOR CONSUMPTION ON THE LICENSED PREMISES OF THE GRILL, TWENTY
40 THOUSAND DOLLARS.

41 13. For a domestic farm winery license, one hundred dollars.

42 14. For a club license issued in the name of a bona fide club qualified
43 under this title to sell all spirituous liquors on-sale, one thousand
44 dollars.

1 15. For an out-of-state winery that sells not more than fifty cases of
2 wine in this state in a calendar year, twenty-five dollars.

3 C. The department may issue licenses with staggered renewal dates to
4 distribute the renewal work load as uniformly as practicable throughout the
5 twelve months of the calendar year. If a license is issued less than six
6 months before the scheduled renewal date of the license, as provided by the
7 department's staggered license renewal system, one-half of the annual license
8 fee shall be charged.

9 D. The annual fees for licenses shall be:

10 1. For an in-state producer's license, to manufacture or produce
11 spirituous liquors in this state, three hundred fifty dollars.

12 2. Except as provided in paragraph 15 of this subsection, for an
13 out-of-state producer's, exporter's, importer's or rectifier's license, fifty
14 dollars.

15 3. For a domestic microbrewery license, three hundred dollars.

16 4. For a wholesaler's license, to sell spirituous liquors, two hundred
17 fifty dollars.

18 5. For a government license issued to a county, city or town, one
19 hundred dollars.

20 6. For a bar license, which is an on-sale retailer's license to sell
21 all spirituous liquors primarily by individual portions and in the original
22 containers, one hundred fifty dollars.

23 7. For a beer and wine bar license, which is an on-sale retailer's
24 license to sell beer and wine primarily by individual portions and in the
25 original containers, seventy-five dollars.

26 8. For a conveyance license issued to an operating railroad company,
27 to sell all spirituous liquors in individual portions or in the original
28 containers on all passenger trains operated by the railroad company, or to an
29 operating airline company, to sell or serve spirituous liquors solely in
30 individual portions on all passenger planes operated by the airline company,
31 or to a boat operating in the waters of this state, to sell all spirituous
32 liquor in individual portions or in the original containers for consumption
33 on the boat, two hundred twenty-five dollars.

34 9. For a liquor store license, which is an off-sale retailer's license
35 to sell all spirituous liquors, fifty dollars.

36 10. For a beer and wine store license, which is an off-sale retailer's
37 license to sell beer and wine, fifty dollars.

38 11. For a hotel-motel license issued as such, to sell and serve
39 spirituous liquors solely for consumption on the licensed premises of the
40 hotel or motel, five hundred dollars.

41 12. For a restaurant license issued as such, to sell and serve
42 spirituous liquors solely for consumption on the licensed premises of the
43 restaurant, five hundred dollars, **AND FOR A RESTAURANT LICENSE FOR A GRILL**
44 **ESTABLISHMENT ISSUED AS SUCH, TO SELL AND SERVE SPIRITUOUS LIQUORS SOLELY FOR**

1 CONSUMPTION ON THE LICENSED PREMISES OF THE GRILL, TWO THOUSAND FIVE HUNDRED
2 DOLLARS.

3 13. For a domestic farm winery license, one hundred dollars.

4 14. For a club license issued in the name of a bona fide club qualified
5 under this title to sell all spirituous liquors on-sale, one hundred fifty
6 dollars.

7 15. For an out-of-state winery that sells not more than twenty-five
8 cases of wine in this state in a calendar year, twenty-five dollars.

9 E. Where the business of an on-sale retail licensee is seasonal, not
10 extending over periods of more than six months in any calendar year, the
11 licensee may designate the periods of operation, and a license may be granted
12 for those periods only, upon payment of one-half of the fee prescribed in
13 subsection D of this section.

14 F. Transfer fees from person to person for licenses transferred
15 pursuant to section 4-203, subsection C shall be three hundred dollars.

16 G. Transfer fees from location to location, as provided for in section
17 4-203, shall be one hundred dollars.

18 H. Assignment fees for a change of agent, as provided for in section
19 4-202, subsection C, shall be one hundred dollars, except that where a
20 licensee holds multiple licenses the assignment fee for the first license
21 shall be one hundred dollars and the assignment fee for all remaining
22 licenses transferred to the same agent shall be fifty dollars each, except
23 that the aggregate assignment fees shall in no event exceed one thousand
24 dollars.

25 I. No fee shall be charged by the department for an assignment of a
26 liquor license in probate or an assignment pursuant to the provisions of a
27 will or pursuant to a judicial decree in a domestic relations proceeding
28 which assigns ownership of a business which includes a spirituous liquor
29 license to one of the parties in the proceeding. In the case of
30 nontransferable licenses no fee shall be charged by the department for the
31 issuance of a license for a licensed business pursuant to a transfer of the
32 business in probate or pursuant to the provisions of a will or pursuant to a
33 judicial decree in a domestic relations proceeding which assigns ownership of
34 the business to one of the parties in the proceeding.

35 J. The director shall assess a surcharge of thirty dollars on all
36 licenses prescribed in subsection D, paragraphs 6, 7 and 12 of this section.
37 Monies from the surcharge shall be used by the department exclusively for the
38 costs of an auditor and support staff to review compliance by applicants and
39 licensees with the requirements of section 4-205.02, subsection E. The
40 department shall assess the surcharge as part of the annual license renewal
41 fee.

42 K. The director shall assess a surcharge of thirty-five dollars on all
43 licenses prescribed in this section. Monies from the surcharge shall be used
44 by the department exclusively for the costs of an enforcement program to
45 investigate licensees who have been the subject of multiple complaints to the

1 department. The enforcement program shall respond to complaints against
2 licensees by neighborhood associations, by neighborhood civic groups and from
3 municipal and county governments. The department shall assess the surcharge
4 as part of the annual license renewal fee.

5 L. The director shall assess a surcharge of twenty dollars on all
6 licenses prescribed in subsection D, paragraphs 11 and 12 of this section and
7 thirty-five dollars on all other licenses prescribed in this section. Monies
8 from the surcharge and from surcharges imposed pursuant to subsection K of
9 this section shall be used by the department exclusively for the costs of a
10 neighborhood association interaction and liquor enforcement management unit.
11 The unit shall respond to complaints from neighborhood associations,
12 neighborhood civic groups and local governing authorities regarding liquor
13 violations. The director shall report the unit's activities to the board at
14 each board meeting or as the board may direct.

15 Sec. 3. Requirements for enactment; two-thirds vote

16 Pursuant to article IX, section 22, Constitution of Arizona, this act
17 is effective only on the affirmative vote of at least two-thirds of the
18 members of each house of the legislature and is effective immediately on the
19 signature of the governor or, if the governor vetoes this act, on the
20 subsequent affirmative vote of at least three-fourths of the members of each
21 house of the legislature.